

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 11 May 2022

APPLICATION REF. NO:	22/00113/FUL
STATUTORY DECISION DATE:	10 May 2022 (extension of time agreed until 13 May 2022)
WARD/PARISH:	COCKERTON
LOCATION:	309 Woodland Road
DESCRIPTION:	Change of use from retail shop (Use Class E) to hot food takeaway (sui generis) and installation of extraction equipment to rear
APPLICANT:	Mr Hussein Hassan

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS (see details below)

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: [22/00113/FUL | Change of Use from retail shop \(Use Class E\) to hot food takeaway \(Sui Generis\) and installation of extraction equipment to rear | 309 Woodland Road DARLINGTON DL3 9AA](#)

APPLICATION AND SITE DESCRIPTION

1. The application property is an existing retail shop located within the shopping parade on Woodland Road, Cockerton located to the south of the roundabout which forms the junction of Woodland Road, West Auckland Road and Cockerton Green. The parade includes a number of shops, including a café, fish and chip shop, bakery and Co-op supermarket with Cockerton Library located at its eastern end, with a surface car park located to the rear (south). The application property and shopping parade are located within the Cockerton Conservation Area and are also located within the Cockerton District Centre, as defined by the proposals map accompanying the Darlington Borough Local Plan, 2016 – 2036.

2. Planning permission is sought for the change of use of the property from a retail shop (Use Class E) to a hot food takeaway (Sui Generis). There are no proposed changes to the frontage of the property, although it is proposed to install a flue in the rear elevation serving an extraction system for the premises. A portable access ramp would be available to facilitate disabled access to the property. It is proposed that the takeaway will be open between the hours of 11am and 11pm, 7 days a week, including Bank Holidays.

MAIN PLANNING ISSUES

3. The main issues for consideration are:
 - (a) Principle of development
 - (b) Impact on visual amenity including the Cockerton Conservation Area
 - (c) Impact on residential amenity
 - (d) Highway safety and disabled access
 - (e) Other matters

PLANNING POLICIES

4. Relevant policies of the Darlington Borough Local Plan 2016 – 2036:
 - SD1 - Presumption in Favour of Sustainable Development
 - DC1 – Sustainable Design Principles and Climate Change
 - DC4 – Safeguarding Amenity
 - TC4 – District and Local Centres
 - ENV1 – Protecting, Enhancing and Promoting Darlington’s Historic Environment
 - IN4 – Parking Provision including Electric Vehicle Charging

RESULTS OF TECHNICAL CONSULTATION

5. The Council’s Environmental Health Officer raises no objection subject to conditions.

RESULTS OF PUBLICITY AND NOTIFICATION

6. A total of 3 letters of objection have been received which raise the following points:
 - Potential for takeaway to attract anti-social behaviour
 - Need shops to be open during the day to attract people to the village
 - Oversaturation of food outlets and takeaways in the village
 - Noise and disturbance
 - Impact on appearance of the surrounding area
 - Smell/refuse
 - Diverse range of shops needed in the precinct

PLANNING ISSUES/ANALYSIS

(a) Principle of development

7. The application property is located within the Cockerton District Centre. District and Local Centres serve an important function in terms of meeting local needs, providing food shopping and a range of other local shops, services and leisure uses in accessible locations which help reduce the need to travel.
8. Local Plan Policy TC4 (District and Local Centres) identifies a range of uses considered to be acceptable within the defined District and Local Centres which include shops, financial services, restaurants and cafes, drinking establishments, hot food takeaways, and a range of community and leisure facilities, providing they are physically integrated with the rest of the centre; and where they ensure the vitality and viability of the centre is maintained.
9. The proposed hot food takeaway use would be compliant with Policy TC4. The application property is located centrally within the parade of shops and as such is considered to be physically integrated with the rest of the District Centre. While reference is made within the objections to the application to the number of hot food takeaways and other food outlets within the Cockerton area, the District Centre extends beyond the confines of the shopping parade and includes other shops and facilities on Woodland Road, Cockerton Green and West Auckland Road. Within the wider District Centre there is a range of facilities on offer which include retail shops, food shops including two Co-op supermarkets, a pharmacy, hairdressers and other similar retail and community facilities. As such, the provision of a further hot food takeaway is not considered to undermine the vitality and viability of the wider centre. The principle of development is therefore considered to be acceptable, subject to consideration of the following issues.

(b) Impact on visual amenity including the Cockerton Conservation Area

10. The parade of shops within which the application property is situated is located at the eastern end of the Cockerton Conservation Area, and presents a modern frontage to this part of the Conservation Area. No changes are proposed to the frontage of the property; however, it is proposed to install a flue in the rear elevation to serve the extraction system for the property. A brief Heritage Statement has been submitted with the application which considers the impact of the proposed flue on the Cockerton Conservation Area as required by paragraph 194 of the National Planning Policy Framework, 2021 (NPPF).
11. The proposed flue will protrude through a single storey flat roof off-shoot to the rear of the property to a height of approximately 3.5 metres, and will extend approximately 1 metre above the main two storey element of the building. The main views of the flue will be from the surface car park to the rear of the parade of shops and will be seen in the context of other plant to the rear of the adjacent Cockerton Fisheries property and servicing areas to the rear of the parade of shops. Limited views of the flue will be obtained from Woodland Road given the limited projection above the property and its

position to the rear of the property. As such, the proposed flue is considered to have a neutral impact on the character of the Cockerton Conservation Area and upon the character and appearance of the wider area, and the proposal accords with Local Plan Policies ENV1 and DC1 in this regard.

(c) Impact on residential amenity

12. The application property is located in an established parade of shops within the Cockerton District Centre. The nearest residential properties are located approximately 45 metres to the east at Squires Court. There are no flats above any of the shops within the parade. It is proposed that the takeaway will be open between the hours of 11am – 11pm daily. In this location, within an established commercial area within the centre of Cockerton, and with other premises open later into the evening such as the adjacent Travellers Rest public House and Cockerton Band and Musical Institute it is not considered that the opening of the takeaway until 11pm each day would result in an unacceptable impact on the amenities of residents at Squires Court and beyond in terms of noise, nuisance and disturbance. A condition limiting opening hours to 11.00 to 23.00 Monday to Sunday, including Bank Holidays is therefore proposed.
13. The Council's Environmental Health Officer has raised no objection to the proposal subject to conditions to secure controls over methods for controlling fumes and odours, noise from the extraction system, the fitting of internal grease traps and the storage of refuse and waste to ensure that the operation of proposed hot food takeaway does not adversely impact upon the amenities of nearby residential properties or the general amenity of the surrounding area. The submitted plans show that refuse storage for the premises will take place within an enclosed yard area to the rear of the unit, which is considered to be acceptable, however the condition requires the further submission of details relating to its disposal to ensure this is undertaken regularly to prevent nuisance from the accumulation of refuse. In addition, there are waste bins located to the front of the parade of shops on Woodland Road that can be used by patrons of the premises to dispose of litter arising from the hot food takeaway.
14. Concern has also been expressed regarding the potential for the proposed takeaway to attract anti-social behaviour. However, in this location within an established retail and commercial area, which benefits from good natural surveillance it is not anticipated that the proposed hot food takeaway would be likely to give rise to concerns relating to anti-social behaviour sufficient to warrant refusal of the application on this basis. Durham Constabulary Architectural Liaison Officer has however been consulted on the application and their comments are awaited and will be reported verbally.
15. Subject to conditions seeking to restrict opening hours and addressing those matters set out in paragraph 13 above, it is not considered that the proposed use would adversely impact upon the amenities of nearby residential properties or the general amenities of the surrounding area. The proposed use is considered to comply with Policy DC4 in this regard.

(d) Highway safety and disabled access

16. The parade of shops and wider District Centre are served by an existing surface car park located to the rear (south) of the application property. Servicing of the property also takes place from the rear car park. The property is also located within a highly sustainable location, well served by public transport and accessible on foot from nearby residential areas. Takeaway businesses typically operate with a higher turnover of short duration parking rather than requiring a significant amount of total parking at any one time. Customers may arrive to collect orders and be parked for 5 – 10 minutes, however this may attract several trips per hour.
17. Many customers are likely to be pass by trips i.e., vehicles already travelling on Woodland Road/West Auckland Road or visiting on foot from other residential areas close by, or linked trips from customers visiting the District Centre. Most takeaways also offer a delivery service further reducing vehicle movements and parking demands over customer collection only.
18. Given the availability of parking close by and the sustainable location of the property within the centre of Cockerton, it is not considered that the proposed use is unlikely to generate additional traffic over and above the current retail use of the premises and is therefore unlikely to warrant grounds for refusal on the basis of it creating a severe highway impact, as required by the NPPF.
19. It is proposed that a portable access ramp will be available to allow disabled access to the premises. There is a slight step up into each of the units and to provide level access into the shop would require remodelling of the shopfront and door. A condition is proposed to ensure the ramp is provided on request and assistance is provided, with the ramp to be removed immediately after use to ensure it does not result in a tripping hazard within the highway. In the circumstances, the provision of a portable ramp is considered to be acceptable, and the proposal complies with the requirements of Policy IN4 in this regard.

(e) Other matters

20. Concern about the number of takeaways in the area has been raised by objection. There is currently no development plan policy which seeks to limit the number or location of takeaways within the Borough, rather each application is considered on its merits having regard to its impact on residential and visual amenity and highway safety, and any other material considerations. Obesity in an area has however been found to be a material consideration when deciding on applications for fast food outlets.
21. Information taken from the Darlington Childhood Healthy Weight Plan, 2019 – 2024 shows that within Darlington the rate of childhood obesity sits above the national average at both reception and year 6, but is very slightly below the regional average at reception age and in line with the North East regional average at year 6. Childhood obesity within Darlington is not evenly spread and is concentrated in the central urban and eastern wards and has a strong correlation with deprivation levels. The wards with

the highest rates of obesity in school children in reception and Year 6 are Bank Top & Lascelles, Eastbourne, and Stephenson. Notwithstanding these figures however, in the absence of any development plan policy relating to hot food takeaways within the Borough and their impact on the health and wellbeing of an area, particularly in areas of high obesity, limited weight can be attached to this as a material consideration in the determination of this application.

THE PUBLIC SECTOR EQUALITY DUTY

22. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Disabled access to the premises has been considered in paragraph 19 of this report and the impact of the proposal on childhood obesity is set out in paragraphs 20 and 21.

CONCLUSION AND RECOMMENDATION

23. The change of use of the premises, which is located within the Cockerton District Centre, from a retail unit to a hot food takeaway accords with Local Plan Policy TC4 which seeks to direct a range of retail, leisure and community uses to existing Local and District Centres. The unit is well integrated within the District Centre and the proposed takeaway use will not undermine the vitality or viability of the existing Centre. A range of conditions are attached to ensure the operation of the proposed takeaway does not give rise to unacceptable impacts relating to residential and general amenity. The proposal does not give rise to any unacceptable impacts relating to parking and highway safety and makes provision for disabled access. The proposed flue to rear of the property will have a neutral impact on the character and appearance of the Cockerton Conservation Area and the wider area. The proposal therefore also complies with Policies DC1, DC4, ENV1 and IN4.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3-year time limit)
2. The development hereby approved shall be carried out in accordance with the approved plans as detailed below:
 - (a) Existing and proposed ground floor plan, drawing number 2022/1
 - (b) Elevations proposed, drawing number 2022/1A

REASON – To ensure the development is carried out in accordance with the planning permission.

3. The use hereby approved shall not operate outside the hours of 11:00 – 23:00 Monday to Sunday, including Bank Holidays.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

4. Details of ventilation and fume extraction, including a full technical specification by a suitably qualified technical person shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall specify the position of ventilation, fume or flue outlet points; the type of filtration or fume treatment to be installed and shall include details of noise levels generated and any noise attenuation structures to be incorporated. Thereafter the scheme shall be implemented in accordance with the details as approved prior to the use hereby approved commences and shall be maintained for the lifetime of the development.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

5. In accordance with the EMAQ report dated 19/4/22 submitted as part of this application a high level of odour control is required:
 - Fine filtration or ESP followed by carbon filtration (carbon filters rated with a 0.2 – 0.4 residence time); or
 - Fine filtration or ESP followed by a UV ozone system to achieve the same level of control as above.

The odour control shall be installed, operated and maintained in accordance with manufacturers recommendations including frequency of replacement filters, for so long as the use continues. No modifications to the approved scheme shall be undertaken without the prior approval of the Local Planning Authority.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

6. The drainage system to the premises shall be provided with a suitable grease trap so as to prevent the discharge of grease into the public sewer.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

7. A scheme for the secure storage of waste from the premises and the removal of refuse from the site shall be submitted to and approved by the Local Planning Authority in writing and implemented before the use hereby approved commences.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

8. For the duration of the approved use, a temporary portable ramp shall be provided and made available for disabled customers to the takeaway, as set out on drawings entitled 'Proposed Floor Plan', received on 16 March 2022 and 'Ramp Details' received on 23 March 2022. The ramp shall be removed from the highway when not in use.

REASON – To provide disabled access to the premises and to comply with the requirements of Darlington Borough Local Plan Policy IN4.

9. Prior to the commencement of the use hereby approved, a sign shall be erected at the entrance of the premises informing any persons unable to enter the premises that a temporary portable ramp is available on request. The sign shall remain in situ unless otherwise agreed in writing by the Local Planning Authority.

REASON – To provide disabled access to the premises and to comply with the requirements of Darlington Borough Local Plan Policy IN4.